

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SEAN L. FISH, et al.,

Plaintiffs,

vs.

LIBERTY MUTUAL FIRE INSURANCE
COMPANY, et al.,

Defendants.

Case No. 2:13-cv-00326-APG-NJK

ORDER GRANTING EMERGENCY
MOTION TO STAY DISCOVERY

(Docket No. 52)

Pending before the Court is the emergency motion to stay discovery filed by Defendant Western United Insurance Company (“Western United”). Docket No. 52.

“The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when a potentially dispositive motion is pending.” *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011). The case law in this District makes clear that requests to stay all discovery may be granted when: (1) the pending motion is potentially dispositive; (2) the potentially dispositive motion can be decided without additional discovery; and (3) the Court has taken a “preliminary peek” at the merits of the potentially dispositive motion and is convinced that Plaintiff will be unable to state a claim for relief. *Id.* at 602-603.

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The Court finds these factors are present here. First, Defendant Western United's motion for summary judgment is potentially case-dispositive.¹ Second, the motion for summary judgment can be decided without additional discovery. Third, the Court has taken a preliminary peek at the merits of the motion for summary judgment² and believes Plaintiffs will be unable to state a claim for relief against Defendant Western United.³

Accordingly, Defendant Western United's emergency motion to stay discovery is hereby **GRANTED**. In the event that the motion for summary judgment is not granted in full, the parties shall submit a joint status report to the undersigned within 14 days of the issuance of the order resolving the motion for summary judgment. That status report shall indicate what discovery needs to be completed and shall provide a proposed plan for completing it.

IT IS SO ORDERED.

DATED: December 26, 2013.



NANCY J. KOPPE
United States Magistrate Judge

¹

The Court previously expressed concerns about staying discovery in this case because of the ongoing case between Plaintiffs and Defendant Liberty Mutual Fire Insurance Company ("Liberty Mutual"). See Docket No. 42, at 2. During a hearing before the Court on December 13, 2013, however, counsel for Defendant Liberty Mutual informed the Court that it has reached a settlement with Plaintiffs on this case, and that a Stipulation of Dismissal will be filed with the Court once the parties had signed an agreement. Docket No. 45.

²

The Court notes that Defendant Western United has now filed two motions for summary judgment in this case. See Docket Nos. 30, 53. As Docket No. 30 is the only motion to which Plaintiffs have had the opportunity to respond thus far, the Court has limited its preliminary peek to that motion for summary judgment.

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Conducting this preliminary peek puts the undersigned in an awkward position because the assigned district judge who will decide the motion to dismiss may have a different view of its merits. See *Tradebay*, 278 F.R.D. at 603. The undersigned's "preliminary peek" at the merits of that motion is not intended to prejudice its outcome. See *id.*